

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Alexander Fridman et al. : Confirmation No.: 6456
Application No.: 10/560,537 : Group Art Unit: 1753
International Filing Date: June 18, 2004 : Examiner:
For: VORTEX REACTOR AND METHOD : Atty Docket No. DREX-1002US
OF USING IT :
:

REQUEST FOR REFUND BASED ON FAILURE TO RECEIVE
NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE
UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Mail Stop 16
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The applicants hereby request a refund of the five-month extension of time fee of \$1080.00 in conjunction with the Response to the Notification of Missing Requirements (“Notification”) in the above-identified application on February 28, 2007, on the basis that the Notification dated August 2, 2006, was not received by the applicants’ representative. This fee was paid by debit to U.S. Patent and Trademark Office Deposit Account no. 50-0462.

Non-receipt of the Notification dated August 2, 2006, is substantiated by the attached declarations of Carla P. McDuffie and Catherine A. Rose, and a photocopy of the Knoble Yoshida & Dunleavy, LLC United States Patent and Trademark Office incoming mail log for the period of August 3, 2006 to October 2, 2006, attached thereto.

A timely response to the Notification was due, without payment of extension fees, by October 2, 2006, extendible to March 2, 2007. Had the Notification been received by applicant’s representative in a timely manner, i.e. some time in August 2006, the applicants would have taken the necessary steps to file a timely response to the Notice by October 2, 2006, to avoid incurring extension of time fees. As a result, no extension of time fees would have been required to respond to the Notification.

On this basis, the applicant hereby requests that the extension of time fees of \$1080.00 paid on February 28, 2007, in relation to the above-identified application, be refunded based on non-receipt of the Notification.

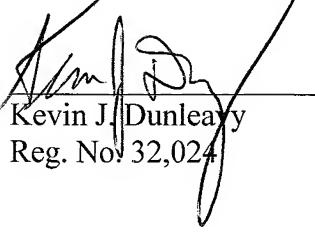
For the record, the applicant conducted a routine status inquiry on this application in the Private Pair system on February 27, 2007. During this routine status inquiry, the Notification of Missing Parts was discovered by the applicant. In order to avoid abandonment of the application, the applicant proceeded to immediately prepare and file a suitable response to the Notification on February 28, 2007, along with payment of the fees for a five month extension of time to respond until March 2, 2007, to thereby ensure that the response was timely filed.

The applicant should not be penalized for having discovered the Notification via a routine status inquiry and taking immediate steps to avoid abandonment of the application. It should be noted that had the applicant not discovered the Notification in this manner, the application would have become abandoned and the applicant could then have petitioned for revival of the application without payment of the five month extension of time fees, on the basis that the Notification had not been received. See e.g. MPEP §711.03(c)(1)(A) and *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). Accordingly, the applicants request that they be restored to the position that they would have been in had the Notification been received, by refund of the \$1080.00 in fees paid for the five month extension of time.

The applicant believes that no fees are due in connection with this submission. However, if the Commissioner determines that any fees are due, the Commissioner is hereby authorized to charge the amount of such fees to Deposit Account No. 50-0462.

Favorable consideration and refund of the \$1080.00 five-month extension of time fee
are requested.

Respectfully submitted,



Kevin J. Dunleavy
Reg. No. 32,024

Dated: April 12, 2007

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